

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5518 of 2022

Subhash Kumar Yadav son of Lalbabu Prasad Yadav, resident of Village-
Bhawalpur, P.S. Madhaura, P.O. Nautan, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Director General of Police, Bihar, Patna.
3. Additional D.G. of Police, Bihar Special Armed Police, Bihar, Patna.
4. D.I.G. of Police, Bihar Special Armed Police, Northern Zone, Muzaffarpur.
5. Commandant, Bihar Special Armed Police- 6, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ram Hriday Prasad, Advocate
For the Respondent/s : Mr.Md.N.H.Khan (Sc1)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 03-01-2024

1. The present writ petition has been filed for quashing the order dated 11.06.2021, passed by the Commandant, Bihar State Arms Police-6, Muzaffarpur, whereby and whereunder the petitioner has been inflicted with the punishment of withholding of wage increments for a period of two years, equals to three Black Marks. The petitioner has also assailed the appellate order dated 04.01.2022, passed by the Deputy Inspector General of Police, Bihar Special Armed Police, Northern Zone, Muzaffarpur i.e. the respondent no.04, whereby and whereunder the appeal, filed by the petitioner has been rejected.



2. The brief facts of the case are that the petitioner was appointed as a constable in BMP-6, now known as Bihar Special Armed Police-6 on 30.07.2008. While the petitioner was working to the satisfaction of all concerned, a chargesheet was issued qua the petitioner herein on 07.09.2020, inter alia alleging therein that the petitioner was responsible for provoking the constables, when one constable, namely, Rajesh Chandra had made an attempt to commit suicide at the special isolation ward as also for closing the office and mess of the camp in question. The petitioner had then filed his reply denying all the charges whereupon the Inquiry Officer had conducted an inquiry and submitted an inquiry report dated 24.05.2021, finding the charges to have been proved qua the petitioner herein. Thereafter, the Disciplinary Authority, i.e. the respondent no.05 had passed the order of punishment dated 11.06.2021, which was assailed by the petitioner by filing an appeal, however, the same has also been dismissed by the respondent no.04 by an order dated 04.01.2022.

3. The short issue raised by the petitioner for assailing the impugned orders dated 11.06.2021 and 04.01.2022, is that neither a copy of the inquiry report has been served upon the petitioner nor any second show-cause notice has been served



upon the petitioner, resulting in denial of reasonable opportunity to the petitioner to prove his innocence, which also amounts to breach of the principles of the natural justice, hence the entire inquiry proceedings, culminating into passing of the punishment order dated 11.06.2021 and the appellate order dated 04.01.2022 are vitiated in the eyes of law, thus should be set aside.

4. Per contra, though the learned counsel for the respondent-State has though opposed the present writ petition, however, upon instructions, he submits that neither a copy of the Inquiry Report was ever served upon the petitioner nor any second show-cause notice was issued to the petitioner, with regard to the inquiry proceedings in question, hence the matter be remanded back to the disciplinary authority from the stage of submission of the Inquiry Report by the Inquiry Officer.

5. I have heard the learned counsel for the parties and perused the materials on record, from which this Court finds that neither the enquiry report, indicting the petitioner has been served upon the petitioner nor the second show cause notice has been issued to the petitioner, thus the petitioner has been denied a reasonable opportunity to put forth his defence and prove his innocence, resulting in breach of the principles of natural justice and violation of Article 311 (2) of the Constitution of India,



hence, the entire enquiry proceedings, from the stage of submission of Inquiry Report, being unfair, unjust and illegal stands vitiated in the eyes of law. Reference in this regard be had to a judgment rendered by the Hon'ble Apex Court in the case of *Union of India vs. Mohd. Ramzan Khan*, reported in *(1991) 1 SCC 588* as also to the Constitution Bench judgment, rendered by the Hon'ble Apex Court in the case of *Managing Director, ECIL Hyderabad vs. B. Karunakar and others* reported in *(1993) 4 SCC 727*.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned herein, I deem it fit and proper to quash the impugned order of punishment dated 11.06.2021, passed by the Commandant, Bihar Special Armed Police-6, Muzaffarpur, inflicting the punishment of withholding the wage increment for two years as also the appellate order dated 04.01.2022, passed by the Deputy Inspector General of Police, Bihar Special Armed Police, Northern Zone, Muzaffarpur and remit the matter back to the disciplinary authority with liberty to proceed afresh from the stage of issuance of second show cause notice. It is needless to state that the payment of consequential benefits shall abide by the final outcome of the fresh disciplinary proceedings to be conducted



by the disciplinary authority, as aforesaid.

7. The writ petition stands allowed to the aforesaid
extent.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2024
Transmission Date	NA

